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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,893

02/01/2005

Umberto Marazzi

Q85964

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23373 7590 07/01/2009  
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EXAMINER

TYLER, STEPHANIE E

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

07/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,893	<b>Applicant(s)</b> MARAZZI ET AL.	
	<b>Examiner</b> STEPHANIE E. TYLER	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/02/2005 &amp; 2/1/2005</u> .                                | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 2/11/2009, PROSECUTION IS HEREBY REOPENED. See Office Action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Kevin P. Shaver/

Supervisory Patent Examiner, Art Unit 3754.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 13-18,23,24,27,28 are rejected under 35 U.S.C. 102(b) as being anticipated by Poitras et al. (3,952,918).

The Poitras et al. reference discloses a fluid dispensing circuit having a pump (21) consisting of a variable-volume chamber (31) and a head (19); and wherein the head (19) comprises a main body (33) in which an inlet duct (28) and an output duct (44) communicate with the variable volume chamber (31); and wherein a second valve (29) is inserted in the inlet duct (28) and a third valve (38,32) is inserted in the outlet duct (passageway through 33); a delivery duct (44) connected to the output duct (passageway through 33) and a nozzle (46); and a first one-way valve (45) located along the delivery duct (44) and outside the pump (21); and third valve (32,38) is formed so as to withstand pressures lower than those which cause the first one-way valve (45) open; and second valve (29) progressively opens during expansion of the variable-volume chamber (31) when fluid is drawn from a reservoir (22) and the third valve (32,38) is closed; and wherein when a desired amount of fluid has been drawn into the variable-volume chamber (31), the variable-volume chamber begins contracting, the second valve (29) closes and the third valve (32,38) opens; and wherein when the third valve (32,38) opens, fluid passes toward the delivery duct (44), opens the first one-way valve (45) and continues to the nozzle (46); and wherein the main body (33) delimits the variable-volume chamber (31) at least partially; wherein the outlet duct (passageway through 33) is formed partially inside the main body (33); and wherein the delivery duct (44) extends partially outside the main body (33); and wherein the second valve (29) is partially open in the rest position; and wherein the second valve (29) has a travel which

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is different from the travel of the at least one of the one-way valve (45) and third valve (32,38); and wherein the pump (21) is connected to the at least one reservoir (22); and wherein it consists of a control system (40,33,36) for controlling the pump (21) so as to deliver a predetermined quantity of fluid.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19,21,22,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poitras et al. (3,952,918) in view of Zoll (3,800,825).

The Poitras et al. reference discloses substantially all the structure and functionality of the invention. However the Poitras et al. reference lacks a knife-edge element.

The Zoll reference teaches a one-way valve having an abutment (body of 10) inside the body of the valve consisting of a knife-edge element (28) for the purpose of creating a tight seal with the sealing gasket (30). Also the Zoll reference discloses a closure member (32); and the closure member consists of a flat abutment surface (surface of 30), and a resilient means/seal (30), and a filter (18,40,42; col.5, lines 15-19) inside of the valve (10).

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Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Poitras et al. device by having a knife-edge element as taught by Zoll in order to provide a cost effective way to manufacture a secure seal surrounding the inlet port of the valve device.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poitras et al. (3,952,918).

The pump consisting of a bellows pump is a design choice based upon the needs of the consumer that will be operating the pump. Having a particular type of pump does not affect the utility of the pump device; and therefore fails to be patentably define over the prior art.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zoll (3,800,825).

Having a filter mounted externally upstream of the least one of the one-way valve and third valve is a design choice based upon the needs of the manufacturer/consumer that will be operating the dispensing circuit. Having the filter externally or internally upstream of one the valves does not affect the utility of the dispensing circuit; and therefore fails to be patentably define over the prior art.

***Response to Arguments***

8. Applicant's arguments with respect to claims 13-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. TYLER whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. E. T./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754